

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

STATE OF ALASKA, DEPARTMENT
OF FISH AND GAME,

Plaintiffs,

v.

FEDERAL SUBSISTENCE BOARD,
et al.,

Defendants,

and

ORGANIZED VILLAGE OF KAKE,

[Applicant] Intervenor-
Defendant.

Case No. 3:20-cv-00195-SLG

**DECLARATION OF PRESIDENT JOEL
JACKSON IN SUPPORT OF
[APPLICANT] INTERVENOR
DEFENDANT'S
MOTION TO INTERVENE**

1. My name is Joel Jackson and I am President of the Organized Village of Kake. I have served in this position since 2017.

2. I am over the age of 18 and competent to testify to the information herein if called to do so. I have personal knowledge of the information contained in this statement.

3. The Organized Village of Kake is the federally recognized Tribal government for the small village of Kake, Alaska.

4. The Tlingit name for the Kake community is Kéex' Kwáan. The Kéex' Kwáan Tlingit have lived at Kake for thousands of years, and have engaged in hunting, fishing and gathering our traditional foods continuously during that time. Kéex' is derived from kée "dawn, daylight" and x'é "mouth," i.e. "mouth of dawn" or "opening of daylight."

5. Kake is located on the northwest coast of Kupreanof Island along Keku Strait, 95 air miles southeast of Juneau. This is approximately the same distance between Ketchikan and Kake, making Kake the most remote community in Southeast Alaska for purposes of travel between the region's two largest hub communities.

6. The Kéex' Kwáan traditional area covers two major islands and overlaps with neighboring Tribes in Sitka to the east, Angoon and Juneau to the north, Wrangell to the west, and Klawock to the south. Attached as Exhibit 1 is the Kake Community Use Map.

7. The community of Kake has approximately 600 people—it fluctuates from 650 to below 600 depending on jobs and our economy.

8. Logging slowed considerably in the 1990's, and there is a small remainder of local commercial/troll fishing in village and region, though salmon runs, halibut, cod and other fishing are not as healthy and strong as in times past.

9. Kake is only accessible by boat, ferry, or small plane. There is only one scheduled air service, Alaska Seaplanes.

10. The State of Alaska's decision to drastically reduce ferry service over the last year has meant that our citizens are less able to travel to Juneau to purchase bulk foods, attend regional meetings and visit the state legislature, and attend routine medical appointments.

11. Air travel to Juneau is infrequent and prohibitively expensive for many of our citizens. There are only two flights a day via sea plane to Juneau and one a day to Sitka, where the Southeast Alaska Regional Health Corporation Hospital is located.

12. The Organized Village of Kake exercises powers of self-governance and jurisdiction over its tribal citizens, and others to the fullest extent allowed by law.

13. The Organized Village of Kake is governed by a Constitution, setting forth the powers, privileges, and immunities of the Tribe. As the governing body of the Organized Village of Kake, the Tribal Council exercises the Tribe's powers of self-governance. Under the Tribe's Constitution, powers vested in the Tribal Council include, but are not limited to, the powers to: (1) negotiate with the Federal and Territorial Governments on behalf of the Village and to advise and consult with representatives of the Interior Department on all activities of the Department that may affect the Village of Kake; (2) "protect and preserve the timber, fisheries and other property and natural resources of the Village"; (3) "aid needy members and protect the general welfare and security of the Village." ORGANIZED VILLAGE OF KAKE CONST., Article V, §§ 1(a), (k), (l). Attached as Exhibit 2 is the Constitution of the Organized Village of Kake, which predates Alaska statehood.

14. The Kéex' Kwáan has had a traditional responsibility to protect the health, safety, and welfare of our community for thousands of years as a matter of inherent sovereignty. The Organized Village of Kake, as a federally recognized Tribe, exerts its sovereignty over all aspects of our tribal territory and governance, which includes the responsibility to provide for food security and to address public health crises that threaten the community, including the COVID-19 pandemic. As Alaska Native people, we are only too familiar with the devastation that disease and epidemics can cause to our communities.

15. Our Kéex' Kwáan citizens, whether living in Kake or visiting from other locations in Southeast Alaska, have continuously hunted, fished, and gathered foods on the traditional territory (lands, waters, sky) of our Ancestors. Our citizens harvest from the ocean, lakes and creeks, tidelands, and on all our territory all the way to the tops of the mountains and bottom of the seas. Our traditional foods are extremely important nutritionally, spiritually, and

culturally. Participating in harvesting is a spiritual act and community responsibility that is physically demanding. Harvesting our traditional foods keeps us busy, helps others, provides us with opportunities to learn about and steward our homelands, keeps us physically healthy, and keeps us focused on positive, community strengthening activities. It is especially important during times of great uncertainty.

16. The traditional foods that our community harvests are the healthiest foods that can be found in our region, our bodies are specifically created in this environment, and our physiology is uniquely in tune and responsive to our intergenerational relationship with our foods and medicines, whether they be animal or plant.

17. There are only two places to purchase commercial foods in Kake—a small grocery store and a mini-mart, both privately owned. The food that is sold in the store and mini-mart arrives in Kake by Alaska Marine Lines barge from the Lower 48 states and is generally processed and is rarely fresh.

18. In March and April 2020, due to the worldwide COVID-19 pandemic, citizens of the community began experiencing shortages of food and cleaning supplies. The commercial food vendors in our community had a hard time meeting the needs of the small store and mini-mart and had a difficult time procuring various foods, fresh and frozen alike. Panic buying elsewhere resulted in shortages in Kake. Meat and canned goods were especially difficult to obtain.

19. At the beginning of April 2020, the Organized Village of Kake began reaching out to the U.S. Forest Service and the Alaska Department of Fish & Game to engage in respectful government to government discussions about our concern about the food insecurity created by the COVID-19 pandemic, specifically the need to protect our tribal citizens and

community due the exacerbated inequities of COVID-19 on Native peoples, our need to provide the best nutrition and immunity-boosting support to our tribal citizens, and the lack of availability and low nutritional quality of commercial foods.

20. Faced with the disruption in the community's access to food, Organized Village of Kake leadership mobilized to determine the best way to secure traditional foods for our Elders and our tribal citizens. Even though in the recent 200 years we have been forced to rely heavily on imported foods, our traditional foods remain the healthiest source of food for our community—they boost our immune systems and are especially important for our Elders and immunocompromised.

21. Having no success in our discussions with U.S. Forest Service and the Alaska Department of Fish & Game, on April 13, 2020 and again on June 4, 2020, the Organized Village of Kake submitted a Special Action Request WSA 19-14 to the Federal Subsistence Board to harvest two bull moose and five male deer per month on forest service land for a period of 60 days.

22. On June 18, 2020, the Tribal Council introduced a Food Security Emergency Declaration Code. This included a Food Security Emergency Declaration in which the Tribal Council official declared a "Food Security Emergency upon a finding that there is a sever lack of direct and immediate access to the food necessary to sustain community health and welfare and/or support strengthening tribal citizen immune systems during public health crises." The Declaration also noted that "the western food supply chain has been delayed, interrupted, or offers a diminished variety of foods and there is a reasonable expectation that it will continue, and that lack of access to food is adversely impacting the health and welfare of the tribal community." Attached as Exhibit 3 is the Food Security Emergency Declaration Code.

23. On July 22, 2020, the Federal Subsistence Board held a meeting to address Special Action Request WSA 19-14. I testified at that meeting on behalf of the Organized Village of Kake.

24. At the June 22, 2020 meeting, the Federal Subsistence Board voted to authorize the Forest Service Ranger District in Petersburg to permit an emergency 30-day hunt, to be evaluated after 30 days to determine if the permit would be extended for another 30 days.

25. On June 23, 2020 the Tribal Council passed the Food Security Emergency Declaration Code that it had drafted and proposed in June.

26. On June 24, 2020, Ted Sandhofer, Forest Service District Ranger for the Petersburg Ranger District, issued Emergency Special Action Permit “COVID-19 Food Security Community Harvest for the Organized Village of Kake” to harvest up to two antlered bull moose and five male Sitka black-tailed deer beginning June 24, 2020.

27. The hunts took place from June 24 to July 24, 2020.

28. Hunters harvested two moose and five bucks as described in the Special Action Permit.

29. The meat was processed by our local citizens, ages 5 to 69.


30. The meat was distributed to Kake households on the following dates: On July 7, 2020, moose meat went to 33 households; on August 5, 2020, moose meat went to 58 households; for a total distribution of 91 households in the community. Deer meat was distributed on July 8, 2020 to a total of 67 households. Households given meat included both households of tribal citizens and nontribal citizens.

31. Salmon is also a very important food source for the Kéex' Kwáan. Unfortunately, this has been a very poor year for salmon. The meat we harvested and distributed was necessary and very welcome for all our citizens.

32. While the Organized Village of Kake supports the decision made by the Federal Subsistence Board to approve Special Action Request WSA 19-14, the Tribe has a particularized and different interest than the Government in protecting its right under ANILCA to administer and oversee community hunts, as we have this year. The Department of Justice is tasked with defending the Federal Subsistence Board and its members. The Tribe has much broader, and deeper, interests in protecting the traditional rights, health and welfare of the Kéex' Kwáan community. While the Organized Village of Kake appreciates the Government's defense of the Federal Subsistence Board in this matter, we respectfully do not believe that our interests will be adequately and fully represented unless we are allowed to intervene in this matter.

33. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED THIS 27th day of August 2020.


Joel Jackson
President

Certificate of Service

I hereby certify that on August 27, 2020, a true and correct copy of the foregoing document was served electronically pursuant to the Court's electronic filing procedures upon the following:

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